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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,083	07/22/1999	VIRGIL M. DAVIS	VISAP016	2317

22434 7590 09/11/2002

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EXAMINER

PWU, JEFFREY C

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/359,083

Applicant(s)

DAVIS ET AL.

Examiner

Jeffrey Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6/17/2002 Election.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 9-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5-9. 6) ☐ Other:

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**DETAILED ACTION**

1. This action is responsive to the Species Election, filed 2002-06-17. Applicant's request for reconsideration of the restriction of the last Office action is not persuasive because the search and examination of the entire application cannot be made without serious burden.

**Title**

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by **Ishiguro et al.** (US 5, 396,558).

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**Ishiguro et al. teach:**

An on-line purchase and load (OPAL) server for performing a transaction over a network using a virtual smart card, said OPAL server comprising:

a virtual smart card database (4D) having a plurality of records, each record including a virtual card identifier and a balance corresponding to a single virtual smart card;

a hardware security module (IC card term 2 of fig.13);

a smart card emulator that receives smart card commands and processes said commands in conjunction with said virtual smart card database and said hardware security module (col.10, line 60-col.12, line 31);

a pseudo card reader module that receives said smart card commands and relays said commands to said smart card emulator, whereby said OPAL server performs a transaction over said network using one of said records in said virtual smart card database (col.12, line 33-col.14, line 50);

wherein said virtual card database further includes purchase algorithm identifiers, and wherein said hardware security module includes a plurality of purchase algorithms that are identified for use by one of said purchase algorithm identifiers, whereby said hardware security module may be used to perform cryptographic functions associated with a purchase (col.16, lines 41-65);

a user verification module that verifies a user accessing said OPAL server and generates a user identifier, said user identifier being suitable to identify one of said virtual smart card records in said card database (col.22, line 62-col.23, line 59);

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wherein said smart card emulator and said pseudo card reader module are implemented as a single software module (col.12, line 33-col.14, line 50);

wherein said network is an Internet over which said OPAL server communicates with a merchant server and a payment server to transact a purchase (3);

wherein said network is an Internet over which said OPAL server communicates with a bank server and a load server to load value onto said virtual smart card (col.27, lines 57-60);

wherein said network is an Internet over which said OPAL server communicates with a web server and an authentication server to authenticate a user (col.1, line 41-col.4, line 22);and

wherein said OPAL server communicates over said network with a payment gateway for funding account authorization and clearing (col.1, line 41-col.4, line 22).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey PWU whose telephone number is (703) 308-7835 .

**Jeffrey Pwu**

A handwritten signature in black ink, appearing to read 'Jeffrey Pwu', with a stylized, flowing script.

**Sep 7, 2002**